

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 861 OF 2021

Mohammad Azam Abdul Aziz Khan .. Applicant
Versus
The State of Maharashtra .. Respondent
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Mr. R. S. Iyer for the Applicant.
Ms. A.A. Takalkar, A.P.P. for the State.
Mr. Anand Mudaliyar, P.I. EOW, MBW.
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CORAM: BHARATI DANGRE, J.
DATED : 13th SEPTEMBER, 2022

P.C:-

1. The learned APP was asked to ascertain the medical status of the applicant in the wake of his affidavit dated 8/03/2021, where he projected that his health condition is critical and he is on medication since detection of enlargement of prostate and the surgery for thyroid cancer. He specifically made a statement that, he was under treatment at Kokilaben Dhirubhai Ambani Hospital, and a report of 23/01/2021 was placed on record.
2. Learned APP has obtained instructions and statement of Dr. Sanjay Pandey, Department of Urology came to be recorded by the Investigating Officer on 7/09/2022.

Dr. Pandey has specifically stated as under:

“1. Mr. Mohammed Azam Khan, 60 yrs male, from the records had presented to me on 5.3.2021 at Kokilaben

hospital, Dept of Urology.

2. His complaints Urgency, urge incontinence and Nocturia. His symptoms were significant but not life threatening and was treated by me on the above date with medicines for enlarged prostate and urgency- urge incontinence of urine. He also complained of Haematuria – bleeding in urine.

3. He was advised Ultrasonography and Uroflowmetry and followup within 6 weeks. The records show that I have not seen him on follow up after that.”

3. The learned counsel for the applicant has placed on record certain latest medical documents, which are taken on record and marked as ‘X’ for identification. The foremost documents in form of the clinical notes and management plan, allegedly issued on 24/08/2022, which apparently create doubt when seen with naked eyes, as it can be seen that there is some overwriting on the date and the month. Accompanying the said report is the Diagnostic Services report which is nothing but the report of investigation of the Blood count, Serum (Thyroid Function) etc.

Clinical status of the patient given by the Radiation Medicine Center on 14/2/2022 is recorded as under: “Clinically disease free”.

4. In the wake of the aforesaid documents, it can be seen that the applicant is well and hearty, and if at all he is required to undergo any treatment, he can be well cared to, while he is under detention by referring him to government hospital.

In the above circumstance, I am inclined to direct his arrest but the learned counsel for the applicant on instructions of the applicant, who is present in the court state that, within a period of two weeks from today he shall surrender himself. The statement is accepted as

undertaking to the court, and it is made clear that within a period of two weeks i.e. on or before 27/09/2022, if the applicant do not surrender, he shall be arrested by the Investigating Officer and taken into custody.

In absence of he surrendering within the said period of time as he has undertaken, his application on merits shall not be entertained.

5. Application is disposed off.

(SMT. BHARATI DANGRE, J.)